

**OPINION  
78-135**

February 15, 1978           (OPINION)

Ms. Alisa Simonson  
Director  
North Dakota State  
Laboratories and Consumer Affairs  
Lock Box 937  
Bismarck, ND 58501

Dear Ms. Simonson:

This is in response to your letter of February 2, 1978, wherein you make inquiry of this office relative to Section 19-10-19 of the North Dakota Century Code and the effect of amendments thereto. You submit the following facts and questions in your letter:

At the present time, the Laboratories Department collects an inspection fee of one-twentieth of a cent for each gallon of certain petroleum products sold in the state (N.D.C.C. 19-10-19). Section 6 of chapter 36 of the 1973 session laws amended and reenacted section 19-10-19 and provides for a change in the inspection fee from one-twentieth to one-fortieth of a cent per gallon. Section 7 of chapter 36 of the 1973 session laws states that section 6 (of chapter 36, 1973 session laws) is not effective "until such time as the industrial commission certifies to the state laboratories department . . . that the bonds issued pursuant to this act have been retired."

Section 4 of chapter 15 of the 1975 session laws specifically provides for the continuation of sections 6 and 7 of chapter 36 of the 1973 session laws. The session laws of 1977 do not specifically provide for the continuation of sections 6 and 7 of the 1973 session laws.

I have two questions related to the above background information. First, does the phrase, ". . . that the bonds issued pursuant to this act have been retired.", refer to the time at which sufficient revenue has been received to retire the bond principal and interest or does the phrase refer to the legal date on which the bonds and interest are retired in accordance with the bond payment schedule?

Secondly, does the lack of a specific continuation clause in the 1977 session laws for sections 6 and 7 of chapter 36 of the 1973 session laws allow for the continuation of these sections or does this lack of a continuation clause nullify the 1973 legislation?

You have correctly set forth the statutory provisions and legislative amendments thereto.

With reference to your first question, we would note that Section 7 of Chapter 36 of the 1973 Session Laws provides for an effective date of the amendment, as follows:

SECTION 7. EFFECTIVE DATE. Section 6 of this Act shall not become effective until such time as the industrial commission certifies to the state laboratories department or its designee that the bonds issued pursuant to this Act have been retired." (emphasis supplied)

We feel the effective date and time specified therein is a clear statement and is self explanatory as far as that particular amendment is concerned, i.e., at the date the industrial commission certifies to the laboratories department . . . that the bonds issued pursuant to the Act "have been retired." This date is not predicated upon receipt of sufficient revenue or a bond payment schedule but rather upon such time as the industrial commission certifies that the bonds have been retired. We assume that such certification refers to actual retirement by payment. so that no more moneys than necessary are collected to retire the bonds, we believe it incumbent upon the industrial commission to make every effort to retire the bonds as soon as such moneys are available if prior to their actual due date.

With regard to your second question, it would appear that said Section 7 of Chapter 36 of the 1973 Session Laws, providing for an effective date of amendment and the affirmation continuation thereof by provision of Section 4 of Chapter 15 of the 1975 Session Laws, would remain in full force and effect until such time as amendment or repeal are effected by legislative action. The fact that the 1977 Legislative Session did not address itself to the previous enactment either by affirmation of continuity or amendment thereto would not alter or affect the continuing establishment of effective date.

We trust the foregoing general observations, comments, and expressions will adequately set forth our opinion on the matters presented and that the same will be of interest and assistance to you.

Sincerely,

ALLEN I. OLSON

Attorney General